

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

AMERICAN PATENTS LLC,

Plaintiff,

v.

NEWELL BRANDS INC. and BRK
BRANDS, INC.,

Defendants.

CIVIL ACTION NO. 6:21-cv-636-ADA

JURY TRIAL DEMANDED

**JOINT MOTION TO DISMISS NEWELL BRANDS INC. DEFENDANT WITHOUT
PREJUDICE**

WHEREAS for the limited purpose of this case, in consideration of the mutual agreements between the parties, the parties agree as follows:

WHEREAS defendants Newell Brands Inc. and BRK Brands, Inc. represent and warrant to plaintiff American Patents LLC (“American”) as follows:

1. Defendant Newell Brands Inc. (“Newell Brands”) represents and warrants that it is not an entity involved in the manufacture, sale, or offering for sale of any of the accused products or services identified in the complaint filed in this case.

2. Defendant BRK Brands, Inc. (“BRK Brands”) is the only Newell Brands entity responsible for providing the accused products and services identified in the complaint filed in this case. The accused Coleman product is a Coleman licensed product, and The Coleman Company Inc. (“Coleman”) does not design, manufacture, and/or sale that product. Coleman preserves any and all rights to contest that it has responsibility or is liable because the Coleman trademark is used under license, and Coleman did not design, manufacture, sale, or distribute the accused product at issue.

3. BRK Brands can satisfy any adverse judgment in this action.

4. BRK Brands agrees that, for the limited purpose of this case, in return for the mutual promises of the parties herein, any documents or things that may be relevant to this action and that are in the possession, custody, or control of Newell Brands will be deemed to also be in the possession, custody, or control of BRK Brands. Likewise, BRK Brands agrees that it will not refuse to provide discovery on the grounds Newell Brands is in possession, custody, or control of such discovery; however, Newell Brands should not have any relevant documents.

5. Newell Brands will not file a declaratory judgment action against American Patents relating to the patents-in-suit as long as American Patents does not seek to reinstate any claims against Newell Brands relating to the patents-in-suit.

6. BRK Brands will not assert that there is improper venue in this litigation.

7. Newell Brands agrees that if American Patents LLC agrees to dismiss it without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1), such dismissal is made in reliance on Newell Brands' and BRK Brands' representations, warranties, and agreements described herein.

THEREFORE, Newell Brands, BRK Brands and American Patents jointly move that Newell Brands be dismissed without prejudice from this action, with all parties bearing their own costs and fees.

Dated: September 14, 2021

Respectfully submitted,

/s/ Zachariah S. Harrington

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*Counsel for Defendant BRK Brands, Inc. and for
Defendant Newell Brands Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on the 14th day of September 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Zachariah S. Harrington
Zachariah S. Harrington